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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/26/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EASTERN SAVINGS BANK, FSB,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.
-----X

STIPULATION AND ORDER

08 Civ. 5658 (BSJ)

WHEREAS, on or about June 20, 2008, Eastern Savings Bank, fsb (the "Petitioner") attempted to file a Verified Petition (the "Petition"), pursuant to 21 U.S.C. § 853 (n), as a third party petitioner with an interest in the real property that is listed in the Preliminary Order of Forfeiture docketed in the criminal action United States v. James Russo, et al, S1 05 Cr. 1326 (SCR); and

WHEREAS, the Clerk of the Court refused to accept the petition for filing in the criminal action and directed the petitioner to file this civil action; and

WHEREAS the Clerk of the Court's failure to allow the Petitioner to file the third party petition, in the criminal action, was an error and consequently, the Petitioner was forced to incur a filing fee of THREE HUNDRED FIFTY AND 00/100 DOLLARS (\$350.00) to initiate this civil action; and

WHEREAS, on or about June 30, 2008, the third party petition was correctly accepted by the Clerk of the Court and filed in the aforementioned criminal action, appearing on the criminal docket as document #107; and

THEREFORE IT IS HEREBY STIPULATED AND AGREED, by counsel and all parties herein, that this action be voluntarily dismissed without prejudice or further cost to either party; and

IT IS FURTHER STIPULATED AND AGREED that this Stipulation and Order may be executed in multiple counterparts each of which shall be an original and all of which shall constitute but one and the same instrument. The parties acknowledge and agree that this Stipulation and Order may be executed via fax and the faxed copy of the Stipulation and Order shall constitute a valid, original and binding agreement; and

IT IS FURTHER ORDERED, that the Clerk of the Court, for the Southern District of New York, refund the filing fee incurred by the Petitioner, in the amount of THREE HUNDRED FIFTY AND 00/100 DOLLARS (\$350.00), by causing a check to be issued and mailed to Kriss & Feuerstein LLP, as counsel for the Petitioner.

Dated: July 1, 2008

KRISS & FEUERSTEIN LLP
Attorneys for Petitioner

By: 

Jennifer Schwartz, Esq. (JS-9633)
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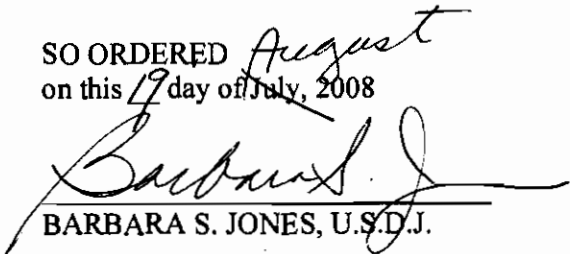
Dated: July 3, 2008

MICHAEL J. GARCIA
United States Attorney

By: 

AUSA Lee Renzin
U.S. Attorney's Office- SDNY
One Saint Andrew's Plaza
New York, New York 10007
(212) 637-2723

SO ORDERED *August*
on this 19 day of ~~July~~, 2008


BARBARA S. JONES, U.S.D.J.